



YOUR LEGAL RIGHTS AND RESPONSIBILITIES AS AN 18-YEAR-OLD

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Compiled by Beda Lovitt, Esq.
Updated by Catherine K. Warhank, Esq.
and Beverly Marlow, Paralegal



Linda McCulloch
Montana State Superintendent of Public Instruction
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DEAR FRIENDS:

Turning 18 is your first step down the road of legal adulthood. That step takes you into a vast new world of rights and responsibilities.

The Montana Office of Public Instruction compiled this booklet as a guide to help you understand the legal aspects of becoming an adult.

I wish you an exciting, successful journey into your future!



Linda McCulloch
Montana Superintendent of Public Instruction

Introduction

This booklet focuses on the changes in legal rights and responsibilities that occur when you become 18 and are considered an adult. The purpose is to inform you of your rights and to help you recognize and avoid possible problems.

The booklet provides a summary of legal principles in effect at the time of publication. It does not offer legal advice. If you have a specific question you should check the sources mentioned in the back of the booklet or talk with a lawyer.

General Principles

When does a person become an “adult”?

In Montana, as in most states, at age 18. Each state may determine its own “age of majority.” MCA 41-1-101 and 41-5-103

What does it mean to become an adult?

You have certain new rights that are associated with being independent. You also have certain new responsibilities and are held personally accountable for your actions.

When I reach 18, am I automatically given all the rights of an adult?

In Montana the answer now is “yes,” except as to drinking alcohol. Each state may set differing age limits for many situations, including the following:

- voting in state and local elections;
- jury service;
- marrying without parental consent;
- making a contract;
- making a will;
- making a "living" will;
- being an organ donor; and
- obtaining a driver's license.

May the “age of majority” be different for men than for women?

No. That would be unconstitutional sex discrimination.

Do people under 18 have any rights?

Yes. That subject is not discussed in this booklet. You may wish to refer to a lawyer in your community or find the information in your local library.

What are some of the rights you have after age 18 that you didn’t have before?

- to vote;
- to make a will;
- to make a "living" will;
- to be an organ donor;
- to make a contract (rent an apartment, buy a car, take out a loan) in your own name;
- to obtain medical treatment without parental consent;
- to be completely independent from parental control;
- to apply for credit in your own name.

What are some of the responsibilities I have after age 18 that I didn’t have before?

- Criminal charges will be tried in adult criminal court rather than juvenile court.
- Parents no longer are required to support you.
- You may be sued by others on contracts you made.
- You're eligible for jury duty.
- All males are required to register with Selective Service.

Voting

What are the requirements for voting?

You must be 18 or older, a U.S. citizen, a resident of Montana and the county in which you are going to vote for at least 30 days before the election, and you must be registered to vote. MCA 13-1-111

Where do I vote?

Your local government establishes voting locations (“polling places”), usually at a school, city hall or similar public place. Your county clerk and recorder or election administrator can tell you where to vote. MCA 13-1-301

Where do I register to vote?

You can register to vote with your county election administrator and any regularly appointed deputy or assistant election administrator. You can register by personal appearance or by mail. MCA 13-2-201 and 13-2-110

May I vote if I have not registered before election day?

No. You must register at least 30 days prior to any election. You do not need to reregister before each election, but if you fail to vote in two subsequent federal elections, your registration may be canceled. MCA 13-2-301 and 13-2-402

May college students vote in the city where they go to school?

Yes. If you register in that city and can show a change of residence from your hometown. Otherwise, student residence for voting is determined by hometown residence.

May I vote if I will not be in my voting district on election day or cannot appear at the polling place?

Yes. You can vote by absentee ballot after making advance application for an official ballot in person or in writing beginning 75 days before the day of election and ending at noon on the day before the election. MCA 13-13-201, et seq.

Military Service

Who is required to register for the draft?

Every male citizen and male alien residing in the United States born on or after January 1, 1960, who has attained his 18th birthday, must register within 30 days of his 18th birthday. Men may register up to 120 days before their 18th birthday. This is known as Selective Service registration. 50 App. USC 451

How do I register?

Go to a local post office and fill out a registration form giving your name, address, sex, birthday and Social Security number. Physical examinations will not be conducted and classifications will not be issued when you register.

Will draft cards be issued when I register?

No. You will receive a registration acknowledgment card within 30-90 days after you register.

What can happen if I do not register?

Failure to register is a federal crime punishable by up to five years’ imprisonment and/or a fine of up to \$250,000. Eligibility for federal college financial assistance and federal job training assistance programs may require proof of registration.

At what age may a person enlist in the Armed Forces?

You can enlist at age 17 with parental consent. Without parental consent, you cannot enlist until you are 18. The maximum age varies with the branch of service.

Jury Duty

If called to serve on a jury, do I have to go?

Yes, unless you are excused for some special reason. This is one of the responsibilities of being an adult. MCA 3-15-301, et. seq.

What are the qualifications for serving on a jury?

You must be 18 or older, a U.S. citizen, a registered elector, not so ill or disabled as to interfere with jury duty, and able to read and understand the English language.

How are people called to serve on a jury?

Once a year a list of the names of potential jurors is prepared from the most recent list of registered voters. Before a jury is needed, names are chosen at random from the list. A notice of selection, a jury questionnaire and a

form for an affidavit claiming an excuse is sent to each person drawn. This is the jury panel from which jurors are chosen.

Do all people in the jury panel actually serve on a jury?

No. More people are chosen than will be needed because some people are excused and others might be excluded by the judge or the attorneys.

Who will be excused from serving as a trial juror?

The court or jury commissioners must excuse a person who is not competent, is chronically incapacitated by illness or injury, or a person who believes the jury service would entail undue hardship for her/him or for the public served.

Who will a judge excuse from jury service?

The judge will excuse people in the following circumstances:

- related by blood or marriage to someone involved in the case or to one of the lawyers;
- having a financial interest in the case;
- having formed an opinion about how the case should be decided; or
- having a bias or prejudice which would prevent deciding the case impartially.

Are people with certain jobs--fire fighters, police officers or teachers--automatically excused from jury service?

There are no automatic excuses based on occupation.

May high school students over 18 serve on juries?

Yes.

How are people chosen from the jury panel?

Names are chosen at random from those called for jury duty. The judge and lawyers ask general questions and excuse people for the reasons discussed. Lawyers then ask questions and can ask the judge to excuse someone if there is a special reason such as bias, prejudice or financial interest in the case. Each lawyer is allowed to eliminate four people for no reason for a 12-person jury, and a number agreed upon (not to exceed four) for juries of six to 12.

Do people on a jury lose their salaries?

It depends on the employer. Employers are required to give employees time off for jury service but are not required to continue wage payments.

Are jurors paid by the county?

Yes. A juror is paid at a rate of \$13 per day plus mileage for traveling each way between home and the court.

How long can people be required to serve on a jury panel?

People whose names are drawn must serve for one year and until other people are selected. If they are currently serving, they are required to continue for a period not exceeding 90 days unless they have already been chosen to sit on a jury.

Alcohol & Other Drugs

What is the current legal drinking age in Montana?

Montana's Constitution allows the establishment of the legal age for purchasing, consuming or possessing alcoholic beverages. In 1987, Montana's legal drinking age changed from 19 to 21. MCA 45-5-624

May the state change the drinking age?

Yes. Buying beer or liquor is considered a privilege rather than a right, so a state may change the drinking age.

May the drinking age be different for beer and liquor?

Yes. Many states have different ages.

What are some examples of violations of Montana's drinking laws by underage persons?

- Being in possession of alcoholic beverages;
- obtaining or attempting to obtain alcoholic beverages;
- being on licensed premises without a parent, guardian or spouse who has attained the legal drinking age;
- falsely representing age to obtain alcoholic beverages;

- carrying, obtaining, making, altering, duplicating or presenting a false identification card;
- operating a vehicle, motorboat, sailboat, waterskis, surfboard or similar device while under the influence of alcohol; and
- giving an alcoholic beverage to a person apparently under the influence of alcohol.

Are there situations where an underage person may legally be on the premises of a business that is licensed to sell alcoholic beverages?

Yes, you are allowed to be on such premises when you are accompanied by a parent, guardian or spouse of legal drinking age, to buy food or non-alcoholic beverages, if you work there, and in a number of locations such as restaurants, hotels, bowling alleys and public athletic fields or public buildings.

What laws apply to drug paraphernalia?

State law defines “drug paraphernalia” as all equipment, products and materials used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a dangerous drug. MCA 45-10-101

The possession, manufacture or delivery of drug paraphernalia can result in imprisonment in the county jail for not more than six months, a fine of not more than \$500, or both. Any person 18 years of age or over who delivers drug paraphernalia to a person under 18 years of age, who is at least three years younger, is subject to imprisonment in the county jail for not more than one year and a fine of not more than \$1,000, or both. In addition, the person may be required to complete a dangerous drug information course at a chemical dependency facility and may be required to undergo chemical dependency treatment. MCA 45-10-103 through 45-10-108

Driving

Is driving a right or a privilege?

It is a privilege that the state may regulate.

Do parents continue to be liable for a child’s accidents after the child turns 18?

Generally no, not even if they signed as a sponsor when you first obtained a license. The liability of the sponsor ends when you turn 18.

Are all owners of a motor vehicle required to have insurance?

Yes. An owner of a motor vehicle which is registered and operated in Montana by the owner or with his/her permission has to have proof of financial responsibility or insurance for liability for bodily injury or death or damage to property in an amount not less than \$50,000 because of bodily injury to or death of two or more people in any one accident; and \$10,000 because of injury to or destruction of property of others in any one accident. Proof of responsibility or insurance is required. The person operating the vehicle is the person responsible for making sure the vehicle is insured before driving the vehicle. This means that the driver will get a ticket for no insurance - not the owner. Penalties include fines from \$250 to \$500 and imprisonment up to six months and suspension of driver’s license. MCA 61-6-301, et seq.

What happens if someone is stopped for drunk driving?

Without making an arrest, the officer might ask you to perform field sobriety tests or to submit to a preliminary breathalyzer test. Any person who operates a vehicle or is in actual physical control of a vehicle is deemed to have given consent to a chemical test of his blood or breath. The officer will inform you that you are considered to have consented to the chosen test, that failure to submit to the test will result in immediate seizure of your driver’s license. If you take a test and the result shows a blood alcohol concentration of 0.08 or more, it will be presumed that you are under the influence of alcohol. A concentration in excess of 0.04 may be considered with other evidence. MCA 61-8-401.

If you refuse the officer's test and the officer has seized your driver's license, the officer will issue a 5 day temporary driving permit. Your license will then be subject to suspension and revocation. You have the right to appeal within 30 days and have a hearing in district court. Proof of refusal to submit to a test by a person under arrest is admissible in any court action. If you do not request a hearing or, if after hearing, the court determines that you are not entitled to a license, your driver's license will be suspended for 6 months on the first refusal to take a breath test. MCA 61-8-402 and 61-8-403

Do the drunk driving laws apply only to cars and trucks?

No. The term "vehicle" means every device in, upon, or by which any person or property may be transported or drawn upon a public highway. There is an exception for bicycles.

What are the penalties for drunk driving by a person 18 but under the age of 21?

It is unlawful for a person under the age of 21 who has an alcohol concentration of 0.02 or more to drive or be in actual physical control of a vehicle. Absolute liability is imposed for a violation.

For the first conviction, a fine of not less than \$100 or more than \$500 and suspension of driver's license for 90 days.

For a second conviction, a fine of not less than \$200 or more than \$500, incarceration of not more than 10 days, and suspension of driver's license for 6 months.

For a third or subsequent conviction, a fine of not less than \$300 or more than \$500, incarceration for not less than 24 consecutive hours or more than 60 days and suspension of driver's license for 1 year. MCA 61-8-410

What are the penalties for driving under the influence of alcohol or drugs?

For the first offense, imprisonment of not less than 24 hours or more than 6 months and a fine of not less than \$300 or more than \$1000. Except for the initial 24 hours of the imprisonment term, the imprisonment sentence

may be suspended for a period of up to 1 year pending successful completion of court-ordered chemical dependency assessment, education, or treatment by the person.

For the second offense, a fine of not less than \$600 or more than \$1000, imprisonment of not less than 7 days or more than 6 months, with at least 48 consecutive hours in a county jail. Except for the initial 5 days of the imprisonment term the imprisonment sentence may be suspended for a period of up to 1 year pending successful completion of a chemical dependency treatment program by the person.

For the third offense, imprisonment of not less than 30 days or more than 1 year with 48 consecutive hours in a county jail, a fine of not less than \$1000 or more than \$5,000, and an alcohol information course at an alcohol treatment program and/or alcohol drug treatment. These penalties double if there are one or more passengers in the vehicle who are under age 16. MCA 61-8-714

What are the penalties for driving with excessive alcohol concentration?

It is unlawful and punishable to drive or be in actual physical control of a vehicle on any public road with excessive alcohol concentration as measured by a test of blood, breath or urine. Excessive alcohol concentration is defined as 0.08 or more.

For the first offense, imprisonment for not more than 10 days and a fine of not less than \$300 or more than \$1000.

For the second offense, imprisonment of not less than 5 days in the county jail, or more than 30 days and a fine of not less than \$600 or more than \$1000.

For the third offense, imprisonment for not less than 10 days in a county jail, or more than 6 months and a fine of not less than \$1000 or more than \$5,000. These penalties double if there are one or more passengers in the vehicle who are under age 16. MCA 61-8-722

Are there more penalties for fourth or subsequent offenses of driving under the influence of drugs or alcohol or excessive alcohol concentration?

Yes. On conviction the person is guilty of a felony and shall be punished by imprisonment of 13 months with no suspension and no eligibility for parole. If the person successfully completes a residential alcohol treatment program, the remainder of the sentence must be served on probation. In addition the person must be sentenced to probation for not more than 5 years, a fine of not less than \$1,000 or more than \$10,000, payment of costs of imprisonment, probation and alcohol information course and/or alcohol or drug treatment. If the person, on a previous violation, was placed in a residential treatment program, on subsequent violations will be sentenced to the Department of Corrections for 13 months to 5 years.

In addition, the court must restrict the person to only driving a vehicle equipped with a functioning ignition interlock device and require them to pay the reasonable cost of leasing, installing, and maintaining the device. The person is also required to submit to random or routine drug and alcohol testing. MCA 61-8-731

Apartments

What are a property owner's rights in an apartment?

A property owner (landlord) has the right to set the amount of rent, set rules for occupancy, collect for damages to the property and sell the rental unit. (If there is a written lease, it continues to its expiration date.)

What are the tenant's rights?

A tenant has the right to use the rental unit in accordance with the rules, to occupy the rental unit without unjust interference by the landlord, and to expect the property to be kept in reasonably good repair.

Is there anything I should do before renting a property?

You should see the unit you rent, note its condition, report any need for painting/cleaning/repairing, and be sure you want to rent the place. Understand that if you rent the unit in its present condition without further agreement as to repairs, etc., it means the landlord need do nothing more

as he or she is not responsible for any defects unless they violate health or building codes.

What is a lease and what should be in it?

A lease is an agreement between you and the landlord. It may or may not be in writing. A written lease is good protection because it prevents any change in rental conditions such as an increase in rent during the term of the lease. Before you sign the lease, read it carefully, do not leave any blank spaces unfilled, make sure you understand its terms, make sure all additional conditions or promises not included in the lease form presented to you are written on the lease or on a paper attached to the lease, and make sure you understand who pays for such things as utilities, gas, electricity, water, and garbage collection. Make sure a condition of premises form is completed before you occupy the premises. Any damage to the premises not listed on this form will be your responsibility. Make sure you keep an exact copy of the original lease and condition of premises form signed by both you and the owner.

Must a lease be written to be enforceable?

No, unless the lease is for longer than one year.

What are the advantages to having a written lease?

- You will have a better idea of all of your rights and obligations.
- You will have protection against dishonesty.
- You will have protection against poor memories.

What is a security deposit, how much money is it usually, and what is it used for?

It is an amount of money (often equal to one month's rent, but it can be any amount) that the landlord holds as security against property damages, unclean conditions and unpaid rent. A written lease usually outlines the way a security deposit will be handled and what a tenant should do to have it returned.

Do I earn interest on a security deposit?

Generally no, but this is something you should consider asking for.

What can I do to make sure I get back my security deposit?

Any landlord who required a security deposit has to furnish you a separate written statement as to the present condition of the apartment, as well as a copy of the written list of damage and cleaning charges, if any, provided to the previous tenant. This, together with the condition of premises form filled out before you moved in will allow you to establish what damage occurred while you occupied the apartment. You should contact the landlord and ask for an inspection of the apartment after it has been cleaned and your possessions have been removed. The landlord is required to give you a statement of cleaning that needs to be completed. You have 24 hours after receipt of the statement in which to complete the cleaning required. If you do not do the required cleaning, the landlord can deduct the cost of cleaning from your security deposit. MCA 70-25-201

In a monthly lease may I end the lease by just leaving at the end of the month or turning it over to someone else?

No. You must usually give notice at least 30 days for a month-to-month lease. You may not sublease the property without the landlord's consent in writing.

If I sign a lease with three friends and they move out, do I have to pay the full rent or only my 1/4 share?

It depends on what the lease says. You will probably have to pay the full rent. You would then have a claim against your friends and could sue them.

If I break a lease, for what amount can I be sued?

You can probably be sued for all unpaid rent for the full term of the lease, for any physical damage including unusual cleaning expenses, for advertising expenses and other costs of rerenting the apartment, and for the landlord's attorney's fees.

Should I have renter's insurance?

It's usually a good idea. The landlord's insurance will likely cover only the building, not your possessions. Renter's insurance is relatively inexpensive.

How does a landlord terminate a tenancy for nonpayment of rent?

If you do not pay rent when it is due, a landlord may give you a notice to either pay or leave within three days. If you pay the rent in full within the three days you can continue to live on the premises.

Under what circumstances may a landlord enter my premises?

A landlord may enter your premises at reasonable times to inspect, make repairs or show your unit to prospective tenants. The landlord may enter only with 24 hours' notice or without notice in unusual situations to preserve or protect your premises. Any other such entry may be a trespass.

What can I do if a landlord refuses to make repairs?

The landlord's general duty, unless the lease specifies otherwise, is to keep the premises in a "reasonable state of repair." However, if the cost of repair is minor in relation to the rent, it may be your responsibility to fix the problem. Building code violations can be reported to your local building inspector without fear of eviction. When conditions are so bad as to make the premises "uninhabitable," you should consult an attorney about possible claims against the landlord and about whether you can move out and avoid further rent.

May I sublet my apartment and end my obligation to pay rent?

As a general rule, only if your landlord agrees. Most written leases prohibit subletting without written consent.

Are there any statewide rules that apply to leases?

Yes. If your landlord violates the rules and you suffer financial loss, you might have a claim for damages, plus costs and a reasonable attorney's fee. The Montana laws (rules) concerning rental agreements are found in Title 70, Chapters 24-27 of the Montana Code Annotated.

Contracts

What is a contract?

Any agreement between people where each receives some benefit.

May I make a contract before turning 18?

Yes, but a minor can back out of most contracts. Adults cannot usually enforce contracts against minors, unless those contracts are for necessities of life or education loans. That is why your parents, or some adult, probably had to co-sign any contract you made as a minor.

What are some likely contracts I may soon be part of?

- employment contract;
- loan for school or to buy a car;
- installment purchase of some product;
- apartment rental;
- insurance;
- marriage;
- medical care.

Do all contracts have to be in writing?

No. Many contracts (employment, some apartment leases, promise to pay for medical care) are rarely in writing. Some contracts must be in writing, including the following:

- any purchase of an item costing more than \$500;
- any contract to buy or sell land.

What are some of the advantages of written contracts?

Protection against dishonesty--against lies by the other person over what you had agreed to.

Protection against poor memories--after time, people will usually have different recollections of their agreement, even if there is no dishonesty.

What are some of the disadvantages of written contracts?

Consumers are often forced to use printed form contracts that are written to favor the seller (for example, attempting to limit warranties or saying the

customer must pay the business's legal fees if there is a lawsuit to enforce the contract).

Some words contained in written contracts have technical legal meanings that are unknown to most people.

A written contract will usually control even if you thought you had a different agreement--it can be hard to dispute the terms of a written contract. Often, neither person knows what the written contract means--especially if it is a printed form contract.

What are some general rules to follow when I am asked to sign a contract?

- Don't sign anything until you are sure you understand the agreement.
- Read the entire contract before signing it. Ask questions about anything in the contract you don't understand.
- Don't assume that the explanation you receive is accurate. If the verbal explanation and written contract conflict, the terms of the written contract usually control.
- Cross out parts of the contract that conflict with your agreement.
- Write in parts of your agreement that are not in the contract.
- Don't sign a contract if it contains any blank spaces--either fill them in or cross them out if they do not apply.
- Be concerned if someone asks you to sign a contract without reading it.
- Don't be intimidated by salespeople.
- Don't be taken in by friendly salespeople.
- Don't assume that a printed form contract must be okay.
- Never sign anything unless you understand why you are being asked to sign and what you are agreeing to do.
- Be sure you get a complete, accurate, signed copy of the contract.

What can happen if I do not perform a contract--miss payments or other obligations?

You can be sued. You, as a "defendant," can be required to appear before a judge or jury and are given a chance to defend against the other person's

(“plaintiff’s”) claim against you. The judge or jury decides what the facts are and who wins. If you do not defend, you will lose by default. If you lose, a “judgment” will exist against you. Your wages can be “garnished” (taken). The judgment lasts until it is paid. Interest is added to the amount of the judgment.

Are there time limits for starting a lawsuit or being sued?

Yes. Montana laws create deadlines, called “statutes of limitation,” for starting lawsuits or making claims. Some deadlines are very short. If you think you have a possible claim or lawsuit, you should promptly talk with a lawyer and ask what time limit applies.

What can I do if I owe more money than I can pay?

Some alternatives include working out agreements to pay your debts back over time, consulting a consumer credit counselor, taking out a new loan to pay back existing debts, and bankruptcy.

What are some of the consequences of bankruptcy?

Bankruptcy is a formal court proceeding. It is quite complicated. The result is that your assets may be taken (except for certain protected items) and most debts are canceled. Debts that are not canceled include:

- debts obtained by fraud;
- taxes;
- debts that were not reported to the bankruptcy court;
- debts for intentional or malicious injury to people or property;
- judgments incurred as a result of an alcohol related accident; and
- school loans.

Bankruptcy can have a bad effect on your credit rating, making it harder for you to obtain a loan in the future.

Employment

Must an employer give employees a written contract?

No. Most employment contracts are verbal.

For what reasons can an employee be fired?

Generally, an employer can fire someone according to established personnel policies and procedures. An employer may not fire or discriminate against someone based on race, sex, age, handicap, marital status, color or religion.

Who should I contact if I think I have been discriminated against?

Montana Department of Labor and Industry, Human Rights Commission, 616 Helena Ave., Helena, Montana 59624 (444-2884).

Consumer Protection

What are consumer protection laws and what do they do?

Truth-in-lending. This requires disclosure of credit costs and contract provisions. It also gives you a three-day right to cancel any credit sale.

Unsolicited credit cards. This prohibits issuance of unsolicited credit cards and imposes a \$50 ceiling on the liability of any credit cardholder for unauthorized use of such a card.

Fair Credit Reporting Act. Credit reporting agencies must obtain certifications from people who use credit reports, provide consumers access to credit records, provide consumers with the right to dispute information contained in the records, and reinvestigate any disputed information upon the consumer’s request. Credit-granting organizations are required to disclose the reasons for denial of credit.

F.T.C. Door-To-Door Rule. This regulation creates a three-day cancellation right for any contract on credit and for cash sales of \$25 or more which take place away from the seller’s regular place of business. Door-to-door contracts are required to contain a bold-faced notice of the cancellation right.

Equal Credit Opportunity Act. This prohibits discrimination in the granting of credit on the basis of sex or marital status. Credit-granting

organizations are prohibited from requiring the signature of a spouse on a credit application except when needed to create a valid lien.

Magnuson-Moss Warrant Act. This regulates the content and consequences of warranties as they apply to consumer products costing \$10 or more. A distinction is made between “full” and “limited” warranties. State regulations have been adopted in many areas including: term paper sales, motor vehicles and repairs, home solicitation selling, and home improvement contracts.

What is the difference between a “full” and a “limited” warranty?

Under a “full” warranty, the dealer/manufacturer is given a reasonable number of chances to fix defects but then must allow you to choose a full refund or a replacement without charge. A “full” warranty applies to anyone who owns the product during the warranty period. This is referred to as the “lemon law” because it gives protection against “lemons.” Few “full” warranties are given.

The refund or replacement rights do not exist under “limited” warranties. Most warranties are “limited.” All warranties must be labeled as either “full” or “limited.”

Do I have to pay for unauthorized work done by a repair shop?

It depends on what you told the shop when you asked them to do the repairs. There are specific regulations dealing with car repairs.

Are warranties important?

Yes. They establish your right to have defects fixed at no charge. You should always ask for a copy of the warranty. A dealer is required to give you a copy.

What if I bought a “lemon”?

You might be able to cancel the purchase if you bought from a dealer. If a defect substantially impairs the value of the item, you must notify the dealer and give a reasonable number of chances to fix it. Within a reason-

able time you must notify the dealer that you are canceling the purchase and must return the item without substantial change to it.

Do I have any protection after the stated warranty period ends?

Maybe. There is usually an implied warranty created by statute that, for a reasonable time, an item purchased from a dealer will be fit for the purpose for which it was sold.

Do these warranties apply to used items?

It depends. If something is sold “as is,” there are no warranties. If something is purchased from someone who isn’t a dealer, there are usually no warranties.

Who should I contact if I have a consumer question?

Montana Department of Commerce, Consumer Protection Office, 1219 8th Avenue, Helena, Montana 59620 (444-4500). Their website address is www.discoveringmontana.com/doa/consumerprotection

Credit

How do I get a good credit rating?

There are a number of ways, including maintaining a savings account, buying low-priced items on time, getting a job and responsibly using credit cards. A credit rating is intended to measure your ability to repay a debt. This can be established by a record of making your payments on time or by indications of a stable income or other sources of money.

How long does it take to clear up a bad credit report?

It depends on the seriousness of the past problems and the amount and purpose for the new loan. Credit reporting agencies often want references on loans and employment for the past five years. Even a past bad credit rating can probably be avoided if the collateral for the present loan is sufficient.

What is collateral?

Collateral is anything that has value and can be given as security for a loan.

The lender wants to identify property that has a value at least equal to the amount of the loan. If you are unable to repay the loan, the lender has a claim against the property.

What if I buy a TV or stereo on installments and have problems getting it fixed? If the store refuses to fix the set, can I refuse to make payments to the store?

If you obtained outside financing, then your payments would probably have to continue.

If I buy something with a high interest rate loan and later have money to pay off the loan, must I pay the entire amount of interest that would have been due over the term of the original contract?

No. A consumer has a right to prepay a loan at any time without penalty.

Can a purchase contract say that if I don't pay, the store can automatically get its money from my wages?

No. Wage garnishment can occur only after a lawsuit and a judgment against you.

Can the purchase contract say that if I default (don't pay), I agree to assign my wages to the store?

Yes, but there are limitations on wage assignment. It can be canceled at any time by you, and it has a limited term of generally no more than one year.

May a lender have different rules for making loans to women than to men?

No. It is unlawful for any creditor to discriminate against any applicant on the basis of sex or marital status. Lenders may only make distinctions based on the applicant's credit-worthiness. A married person who does not have an outside job might have problems obtaining a loan unless that person has sufficient collateral to provide as security for the loan. If the person's spouse has an established credit rating, the spouse could guarantee

the loan or provide other security that would support the loan.

Marriage, Divorce and Children

When may a person marry without parental consent?

At age 18.

What is the youngest age at which a person may marry with parents' consent?

Sixteen. Even with consent of your parents, you may not marry legally in Montana if you are under 16 years of age. It requires the order of a district court, and the court will require both parties to participate in a period of marriage counseling involving at least two separate counseling sessions not less than 10 days apart with a designated counselor. The court is required to find that the underage party is capable of assuming the responsibilities of marriage and that the marriage will serve his or her best interest.

What can happen if we lie about our ages to get married?

If either person is under 16 at the time of marriage, there is no marriage. It is void. If either person is between 16 and 18 and does not have judicial approval, the marriage is voidable. In other words, the underage person may obtain an annulment of the marriage.

Is marriage a contract?

Yes. It is a contract between the man and woman. State law creates the relationship and describes the consequences of divorce or other marital problems.

How does one get a marriage license?

You apply to the clerk of the district court and pay the application fee. Application requires proof of age and, for each female applicant, a medical certificate of a blood test.

What is required for a valid marriage?

- a valid marriage license;
- an authorized official (generally a clergymen, judge or public

- official) to solemnize the marriage;
- two competent adult witnesses;
- if there is no solemnization, mutual declarations by the people being married are required (common law marriage).

In a marriage, who has to provide support?

Both husband and wife have an obligation to provide for the support of the other and of all minor children. Either spouse may be held liable for necessities furnished to the other spouse, or to minor children.

What happens in a divorce?

A judge will consider child custody, child support, financial maintenance of either spouse, and property division.

Can a parent be required to support their child if he or she is not married?

Yes. A parent can be sued by the child, the child's custodial parent or a child support agency. A wage assignment can be obtained that will automatically deduct the support amount (up to 50% of their net pay) from the parent's paycheck.

What if a man denies that he is a child's father?

A paternity action can be started by the child, the child's mother or a child support agency. If the man cannot afford a lawyer, one will be appointed for him. He has the right to require blood tests. Very accurate blood tests now exist. The question of fatherhood (paternity) can be settled by a paternity agreement. If the question is not settled, a trial will be held to determine who is the child's father.

May a parent's rights be terminated?

Yes. A court may terminate parental rights for the following reasons: abandonment, a continuing need of protection or services for the child, a continuing parental disability, a continuing court-ordered denial of visitation rights, repeated abuse, or a failure to assume parental responsibility. In addition, parental rights could be terminated if a court found the child to be delinquent, to have violated civil laws or ordinances, or to be in need of protective services.

What does termination mean?

Termination of parental rights means that all rights, powers, privileges, immunities, duties and obligations existing between a parent and child are forever ended pursuant to a court order.

Does an abused spouse have to start a divorce action to get assistance from the courts?

No. If you are abused, you can get a restraining order from the court if either you or your children are in immediate physical danger. The order restrains your spouse from coming onto your premises or from contacting you. Other help is also available. Check your Yellow Pages under "Social Services Organizations" for battered wives or spouse abuse groups.

What kind of protection can an abused spouse receive from a court while a divorce action is pending?

The court can order the parties not to interfere with each other's personal liberty or freedom. For instance, the court might order one spouse to leave the home for a short time. Anyone disobeying such an order can be fined, jailed or both.

Can an abused spouse bring an action for personal injuries against the offending spouse?

Yes. To do so, a civil action must be started. You should see an attorney to discuss the sufficiency of the evidence, the facts that must be proven, and the amount of damages or other remedies you could obtain.

Criminal Charges

If someone is arrested for a criminal offense, what does he or she have a right to expect from the arresting officer(s)?

If arrested, you can expect to be searched for weapons by the police and taken to a police station. You will be advised of your rights under the United States Constitution, in what is commonly called your "Miranda warnings." As soon as you request an attorney, the police are not supposed to question you further. Important rights to remember are the right not to talk to the police and the right to have an attorney present. If you cannot afford an attorney, the court will appoint one for you.

What basic things should a person remember if arrested?

You should remember your right to have an attorney present. Once you have identified yourself, you may refuse to make any statement or discuss the case with anyone. On the other hand, you may choose to answer questions, sign papers or take tests. However, any information you give voluntarily can be used as evidence against you in court. Law enforcement officers cannot force or threaten you into answering questions and cannot offer leniency in exchange for any written or oral statements.

How soon after being arrested must a person appear before a judge?

After you are arrested and processed, an “initial appearance” before a judge must occur within a reasonable time. This is usually within 24 hours unless your arrest took place over a weekend, when the initial appearance usually occurs the following Monday.

What is bail?

Bail is a procedure designed to guarantee your appearance in court. Sometimes the court will require a “recognizance” bond, where you agree to pay a certain amount of money if you fail to appear in court. Sometimes the court will require a specific amount of money to be deposited with the clerk of court. Sometimes the court allows a deposit of a bond or title to a vehicle or home. Usually a member of the family must obtain the funds, deposit the money, and then show the receipt in order to get you released.

What if a person cannot afford to hire an attorney?

The first thing to tell the court at your initial appearance is that you wish to speak to someone from the Public Defender’s Office. Generally, the court will postpone your case and provide you with the address and telephone number of the local public defender.

Guide to Government and Community Resources

ADMINISTRATION, DEPARTMENT OF 444-2511

ADVERTISING

False, See CONSUMER PROTECTION

AGRICULTURE, DEPARTMENT OF 444-3144

AGING & LONG-TERM CARE

Governor’s Office on 444-3111

Long-Term Care Bureau, DPHHS 444-7784

ATTORNEYS

Lawyer Referral Service, State Bar of Montana 449-6577

Regulation & Licensing, Commission on Practice, Judiciary 444-2608

AUDITOR’S OFFICE, STATE 444-2040

Toll free 1-800-332-6148

AUTOMOBILE

Consumer Protection, See CONSUMER PROTECTION

Motor Vehicle Div., Dept. of Justice 444-4536

Traffic Safety Education, Office of Public Instruction 444-4432

Highway Patrol Div., Dept. of Justice 444-7000

Highway Traffic Safety Div., Dept. of Justice 444-3412

Motorcycle Safety, MSU-N 265-4177 or 800-922-BIKE

BANKING

Banking & Financial Institutions, Dept. of Administration 841-2920

BIRTH AND DEATH CERTIFICATES

Office of Vital Statistics, DPHHS 444-4228

BLIND, SERVICES FOR

Blind and physical handicapped services, State Library 444-2064

See also DISABILITIES, PERSONS WITH, SERVICES FOR

CAREER INFORMATION

Montana Career Information System 444-3239

Montana Job Service state website <http://jsd.dli.state.mt.us/>

CHILD ABUSE

Child Abuse Hotline (Toll free) 1-866820-5437

CHILD CARE

Child Support Enforcement Div., DPHHS 1-800-346-5437 or 444-9855
http://www.dphhs.state.mt.us/about_us/divisions/child_support_enforcement/child_support_enforcement.htm

CITIZENS' ADVOCATE

Office of, Governor's Office 444-3468, 800-332-2272

COLLEGES, PRIVATE

Carroll College (Helena) 447-4300

University of Great Falls 761-8210

Rocky Mountain College (Billings) 657-1000

See also UNIVERSITIES AND COLLEGES

COMMERCE, DEPARTMENT OF

Switchboard (Information & Telephone Assistance) 841-2700

CONSUMER PROTECTION

Consumer Protection Office, Dept. of Administration 444-4500

DISABILITIES, PERSONS WITH, SERVICES FOR

Developmental Disabilities Program, DPHHS 444-2995

Protection and Advocacy, See MONTANA ADVOCACY PROGRAM, INC.

DISCRIMINATION

Human Rights Bureau, Dept. of Labor & Industry 444-2884

Montana Fair Housing, <http://www.hud.gov/local/mt/buying/fairhsg.cfm>

DOMESTIC VIOLENCE HOTLINE (Toll free) 1-800-655-7867

DRUG ADDICTION

Addictive & Mental Disorders Div., DPHHS 444-3964

EDUCATION

Montana Superintendent of Public Instruction 444-3095,

<http://www.opi.state.mt.us>

Board of Public Education 444-6576, <http://www.bpe.state.mt.us/>

Board of Regents <http://www.montana.edu/wwwbor>

Commissioner of Higher Education 444-6570

EMERGENCIES, NATURAL DISASTERS

Disaster & Emergency Services Div., Dept of Military Affairs 841-3911

EMPLOYMENT

Workforce Service Div., Dept. of Labor & Industry 444-4100

<http://jsd.dli.state.mt.us/>

See also Local Job Service Office

FISH, WILDLIFE & PARKS, DEPARTMENT OF

Department Information 444-2535, <http://www.fwp.state.mt.us/>

FOOD STAMPS

Food Stamp Policy/Oversight Unit, DPHHS 444-5685

http://www.dphhs.state.mt.us/services/programs_available/foodstamp_program_overview.htm

GAMBLING

Gambling Control Div., Dept of Justice 444-1971

See also LOTTERY

GOVERNOR'S OFFICE 444-3111,

<http://www.discoveringmontana.com/gov2/css/default.asp>

HEALTH SERVICES

Ask a Nurse, DPHHS, 1-800-252-1246

Baby Your Baby Referral, DPHHS 1-800-421-6667

AIDS Hotline, Dept. of Health 1-800-233-6668

HISTORICAL SOCIETY, MONTANA 444-2694

HUMAN RESOURCE DEVELOPMENT COUNCIL 447-4267

HOUSING

Montana Board of, Dept. of Commerce 841-2849

Low Income Section 8 Housing 841-2830

http://commerce.state.mt.us/housing/hous_home.html

Montana Fair Housing, <http://www.hud.gov/local/mt/buying/fairhsg.cfm>

INDUSTRIAL ACCIDENT

See WORKER'S COMPENSATION

INSURANCE

Insurance Dept., State Auditor's Office 444-2040

Insurance Compliance Division 444-2040

JUDICIARY

Montana Supreme Court 444-5490

State Law Library 444-3660

JUSTICE, DEPARTMENT OF

Attorney General--Legal Services Division 444-2026

Crime Control Division 444-3604

LABOR AND INDUSTRY, DEPARTMENT OF

Information Desk 444-9091

LAWYERS

See ATTORNEYS

LEGISLATIVE BRANCH

Note: Legislature numbers are only operational when legislature is in session. Legislative leadership and members can be reached through the Legislative Services Division at 444-3064 when legislature is adjourned.

Consumer Council 444-2771

General Information and Message Center 444-4800, <http://leg.state.mt.us/css/services/default.asp>

House of Representatives 444-4815, <http://leg.state.mt.us/css/house/default.asp>

State Senate 444-4880, <http://leg.state.mt.us/css/senate/default.asp>

LIBRARIES

Montana State Library 444-3115, <http://leg.state.mt.us/css/senate/default.asp>

Montana State Law Library 444-3660, <http://www.lawlibrary.state.mt.us/>

LICENSES, PROFESSIONAL & OCCUPATIONAL

Business Standards Division, Dept. of Labor & Ind. 841-2300, <http://discoveringmontana.com/dli/bsd/index.asp>

LIEUTENANT GOVERNOR'S OFFICE 444-3111

LOTTERY

Montana Lottery, Dept. of Administration 444-5825

LOW-INCOME FAMILIES

Human & Community Services Div., DPHHS 444-5902

http://www.dphhs.state.mt.us/about_us/divisions/human_community_services/additional/tanf_eligibility.htm

LIVESTOCK, DEPARTMENT OF 444-7323

MEDICAID

Medicaid Services Bureau, DPHHS 444-4540,

<http://www.dphhs.state.mt.us/hpsd/medicaid/index.htm>

MILITARY

Air National Guard Headquarters, Dept. of Military Affairs 324-3015

Army National Guard Headquarters, Dept. of Military Affairs 324-3000

Military Affairs, Department of 324-3000, <http://www.state.mt.us/dma/index.htm>

Selective Service, <http://www.sss.gov>

MONTANA ADVOCACY PROGRAM, INC. 449-2344

MONTANA ARTS COUNCIL 444-6430

NATURAL RESOURCES AND CONSERVATION, DEPT. of 444-2074,

<http://www.dnrc.state.mt.us/>

POLITICAL PRACTICES, COMMISSIONER OF 444-2942

PUBLIC HEALTH AND HUMAN SERVICES, DEPARTMENT OF 444-5622,

<http://www.dphhs.state.mt.us/>

PUBLIC INSTRUCTION, MONTANA SUPERINTENDENT OF 444-3095,

<http://www.opi.state.mt.us>

REVENUE, DEPARTMENT OF

General Information (Telephone Assistance) 444-6950, <http://discoveringmontana.com/revenue/css/default.asp>

SECRETARY OF STATE 444-2034,

<http://sos.state.mt.us/css/index.asp>

SELECTIVE SERVICE REGISTRATION,

<http://www.sss.gov>

STUDENT LOANS

Guaranteed Student Loan Program, Commissioner of Higher Education 444-6594, <http://mgslp.state.mt.us>

TAX INFORMATION

Federal

Internal Revenue Service 800-424-1040, <http://www.irs.gov/>

State

Customer Service Center 444-6900, <http://discoveringmontana.com/revenue/css/default.asp>

TRANSPORTATION, DEPT. OF 444-6201

UNEMPLOYMENT

Unemployment Insurance Div., Dept. of Labor & Industry 444-2723, <http://uid.dli.state.mt.us/uid/uihome.asp>

UNIVERSITIES AND COLLEGES

Blackfeet Community College (Browning) 338-5441,

<http://www.bfcc.org>

Chief Dull Knife College (Lame Deer) 477-6215, <http://www.cdkc.edu>

Dawson Community College (Glendive) 683-7011,

<http://www.dawson.cc.mt.us/>

Flathead Valley Community College (Kalispell) 756-3822,

<http://www.fvcc.edu/>

Fort Belknap College (Harlem) 353-2607, <http://www.fbcc.edu>

Fort Peck Community College (Poplar) 768-5551, <http://www.fpcc.edu>

Little Big Horn college (Crow Agency) 638-3104,

<http://www.lbhc.cc.mt.us>

Miles Community College (Miles City) 234-3031,

<http://www.mcc.cc.mt.us/>

Montana State University - Billings 657-2011, www.msubillings.edu

Montana State University, Billings College of Technology 656-4445,

www.cot.msubillings.edu

Montana State University (Bozeman) 994-0211, www.Montana.edu

Montana State University College of Technology, (Great Falls) 771-4300,

www.msugf.edu

Montana State University-Northern, (Havre) 265-3700, www.msun.edu

University of Montana (Missoula) 243-0211, www.umt.edu

University of Montana, Montana Tech (Butte) 496-4101,

www.mtech.edu

University of Montana, Montana Tech College (Butte) 496-3701,

www.mtech.edu/cot_tech

University of Montana, College of Technology (Helena), 444-6800,

www.umh.umontana.edu

University of Montana, College of Technology (Missoula) 243-7811,

www.cte.umt.edu

University of Montana - Western, (Dillon) 683-7011,

www.umwestern.edu

Salish-Kootenai College (Pablo) 275-4800, <http://www.skc.edu>

Stone Child College (Box Elder) 395-4875, <http://www.Montana.edu/ww-wsc>

See also COLLEGES, PRIVATE

VOTING INFORMATION

Montana Secretary of State, <http://sos.state.mt.us/css/ELB/Hava.asp>

WORKER'S COMPENSATION

Claims Assistance 444-4661,

<http://erd.dli.state.mt.us/wcclaims/wcchome.asp>

Montana State Fund 800-332-6102, <http://montanastatefund.com>